

# INFORMATION LETTER

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NATIONAL CANNERS ASSOCIATION

For Members  
Only

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## Revised Tariff Schedule Proposed for Public Review

The Tariff Commission has published a tentative revision and consolidation of the U. S. tariff schedule applicable to imports of food products.

The Commission's proposal was prepared in response to a Congressional directive and is intended to modernize and simplify the laws under which imported articles are classified for tariff purposes.

The Commission will hold public hearings beginning March 4 on its tentative revision of "Schedule I—Animal and Vegetable Products," which includes revised classifications of fruit, vegetable, beverage, meat, and fish products.

The Commission's hearings will be principally for the purpose of receiving information and views regarding the probable effect upon domestic industries of the incidental changes in rates of duty which are involved in the draft schedules.

The Customs Simplification Act of 1954 directed the Tariff Commission to make a comprehensive study of the laws prescribing the tariff status of imported articles and to submit a revision and consolidation of these laws which would simplify the tariff structure and likewise simplify the classification of imports for tariff purposes.

The proposal for "Schedule I—Animal and Vegetable Products" is the first of eight individual schedules being prepared by the Commission. Copies of the proposed Schedule I are available for inspection or reproduction at all field offices of the U. S. Department of Commerce and at the offices of Collectors of Customs and Appraisers of Merchandise at all headquarters ports of entry.

Information regarding the Commission's proposal may be submitted in writing or by oral testimony at the public hearings or both. Written statements dealing with the proposed Schedule I should be submitted to the Commission by March 20. Applications to be heard at the public hearing should be submitted to the Commission by February 21.

## Publication on New Method of Detecting Can Leakage

A new method for detecting micro-leakage in metal containers has been developed and is described in the new N.C.A. Laboratory publication entitled *Construction and Use of a Vacuum Micro-Leak Detector for Metal Containers*. The pamphlet, written by G. R. Bee and C. B. Denny of the Washington Laboratory, contains illustrated instructions for constructing vacuum leak detectors to examine containers ranging in diameter from 202 to 603. Copies are available upon request.

## Stockpile Report Recommends Further Study on Food Stocks

The Special Stockpile Advisory Committee appointed by Gordon Gray, Director of the Office of Defense Mobilization, to advise on stockpiling for defense in the nuclear age has recognized in its report the need for consumer goods and services as well as strategic and critical materials in the event of nuclear attack.

The special citizens committee was appointed by Mr. Gray last October 31 (see INFORMATION LETTER of Nov. 2, page 329). Its report was submitted to Mr. Gray and made public this week.

In the event of a nuclear attack on the United States, the report says, the people would have immediate need for products and services essential for survival and relief, including food, water, shelter, and medical and sanitation activity.

The committee included in its recommendations that "the possible need for readily available food supplies and potable water, protected from radioactive fallout, be assessed by civil defense authorities."

In its major findings the committee recommended as a minimum goal that stockpile planning be revised to conform to the present policy which limits new procurement to meeting shortages for a three-year emergency period.

## Hearings on Food Additives Resume in House Next Week

Hearings on food additives legislation will again be the subject of hearings by the Health and Science Subcommittee of the House Interstate and Foreign Commerce Committee February 4-5.

Presenting the Administration's views for the first time since the start of the public hearings will be George P. Larrick, Commissioner of Food and Drugs, and Elliot L. Richardson, Assistant Secretary of Health, Education, and Welfare.

Under the chairmanship of Representative John Bell Williams (Miss.), food additives hearings were commenced during the first session of the 85th Congress and featured a panel of experts from the National Academy of Science. Witnesses at those hearings were representatives of consumer groups and of the chemical and food industries. N.C.A. Counsel H. Thomas Austern testified in favor of H. R. 8390 (Harris of Ark.) and H. R. 8690 (Wolverton of N. J.).

## USDA Advisory Group Urges More Research on Fruits

Members of the USDA's Deciduous Fruit and Tree Nuts Research and Marketing Advisory Committee at their annual meeting held in Albany, Calif., January 6-10, urged a comprehensive program of studies to improve the production, use, and marketing of fruits and nuts.

A proposal to step up studies on the control of insects resistant to insecticides was given top priority in production research. For a long-range solution to insect resistance, the committee said, basic studies should be started to determine the causes of insect resistance and the precise action of various types of insecticidal chemicals.

The committee also urged expanded research on the engineering phases of harvesting and farm handling of fruits and nuts.

In the field of utilization research, the committee urged more basic studies of enzymatic and other changes in fruits and nuts as a basis

for controlling quality changes in processed products. Treatment of fruits before processing, committee members pointed out, often can minimize undesirable changes caused by enzymes.

Also meriting high priority attention, in the committee's opinion, was a proposal to expand research on the chemical constituents of fruits. This research, the committee felt, should include a detailed determination of the nonstarch carbohydrate compounds in fruit and their effects on fruit texture and consistency of fruit purees. It should also include analysis of constituents responsible for astringency, particularly in peaches, apricots, and strawberries for processing. The top need in marketing research, the committee said, is to intensify efforts to develop new or improved methods and instruments for measuring quality factors in fruits and tree nuts. Market quality of fruit, the committee observed, is dependent on the stage of maturity at harvest.

Marketing research to develop more efficient methods and equipment for sorting peaches, plums, and other soft fruits—especially improved sorting tables—is also a high priority need, the committee said.

Members also approved a proposal to expand marketing educational work through the Cooperative Extension Service with fruit producers, packers, shippers, wholesalers, retailers, processors and consumers. Strengthening of market service programs on fruits and tree nuts by state departments of agriculture was also recommended.

Established under the Research and Marketing Act of 1946, the committee is made up of leaders from the deciduous fruit and tree-nut industries. Its detailed recommendations for research to be undertaken by USDA are submitted formally to the Department. Copies of this report will be available from the committee's executive secretary, Dr. Roy Magruder, Office of the Administrator, Agricultural Research Service, U. S. Department of Agriculture, Washington 25, D. C.

### Freezing Points Tabulated

Temperatures at which freezing begins for the major fruits, vegetables and nuts, and many kinds of florist stocks are reported in a research report by the USDA. These values may serve as a guide to refrigeration practices and as an indication of when damage might occur by low natural temperatures.

In general, the tabulations show that most fruits freeze at temperatures 27 to 30 degrees F. and most vegetables at 29 to 31 degrees.

The report, prepared by the Biological Sciences Branch of the AMS, supersedes and brings up to date a previous publication. Copies of the new publication, *Freezing Points of Fruits, Vegetables, and Florist Stocks* (Marketing Research Report No. 196), may be obtained from the Office of Information, U. S. Department of Agriculture, Washington 25, D. C.

### European Corn Borer Count

Figures released by the USDA indicate that the European corn borer were more numerous last fall for the United States than in the previous year. A decline was reported for the eastern U. S., however, and a build-up in most North Central states, reversing a trend of recent years.

Results of USDA's estimate of live borers on hand at the start of 1958 are summarized in the Cooperative Economic Insect Report issued by USDA's Agricultural Research Service January 17.

For the entire United States, the average number of borers per 100 corn plants rose from 112 in the fall of 1956 to 170 in 1957.

In several North Central states the corn borer increased markedly, from an average of 102 borers per 100 stalks in 1956 to 178 in 1957. Heaviest infestations were reported in Iowa with 419 borers per 100 plants, Missouri with 410, and South Dakota with 363. Populations declined in Illinois, Indiana, Michigan, and Ohio.

### FDA Hearing on Coal-Tar Color

Notice is given in the *Federal Register* of January 28 that the Food and Drug Administration will hold a public hearing March 10 to determine if certain synthetically produced colors for use in foods should be tested and certified as harmless before they are marketed.

The colors involved are chemically similar to colors which can be extracted from natural sources, FDA said. At issue are different proposals by the FDA and Hoffman LaRoche, Inc., a color manufacturer, for revising the definition of a coal-tar color as it appears in FDA regulations.

A pre-hearing conference will be held February 20 for the purpose of scheduling subjects and witnesses.

### Grades for Tomato Juice

Notice was given in the *Federal Register* of January 16 that the Agricultural Marketing Service of USDA proposes to revise U. S. standards for grades of canned tomato juice.

The proposal would revise slightly the requirements for color and would define the condition of intensity and quality of light to be used for the evaluation of color.

The proposed standards also would establish a minimum viscosity for the juice and would provide a method of measuring this characteristic.

Interested persons have until April 1 to submit views or comments to the Fruit and Vegetable Division, Agricultural Marketing Service, U. S. Department of Agriculture, Washington 25, D. C.

### R. L. Smith

R. L. Smith, president of Kuner-Empson Company, Brighton, Colo., died January 17 after an illness of several weeks.

Mr. Smith had been associated with Kuner-Empson since 1920. He was elected secretary and a director of the company in 1931 and was elected president of the company in 1946.

Mr. Smith served the N.C.A. as a member of the Administrative Council and Finance Committee from 1948-1957.

### John A. Snively, Sr.

John A. Snively, 68, president of Snively Groves, Inc., died in Winter Haven, Fla., January 22.

He had been connected with the citrus industry in Florida since 1911 and was one of its pioneers in growing, packing, and processing. He established the Polk Packing Company, which became one of the state's largest fresh fruit packing houses, as well as Snively Groves, Inc., which he merged in 1956.

### Lemon Juice under P. L. 480

USDA has issued an authorization to the United Kingdom to finance purchase of up to \$130,000 worth of lemon juice from U. S. suppliers under Title I of P. L. 480.

The authorization, No. 19-07, provides for purchase of approximately 175,000 gallons (equivalent single-strength) of concentrated or single-strength lemon juice in cans, barrels, or kegs. Canned single-strength juice must be U. S. Grade A or better.

## Freeze Damage in Florida

A measure of the loss of Florida citrus fruit as a result of the freezes there is indicated by the drop in prospective production from December 1 to January 1 as reported by the USDA.

The estimate of the 1957-58 crop of oranges decreased 22 million boxes or 22 percent and the estimate for tangerines decreased 1.5 million boxes or 33 percent during the month of December. As a result, the 1957-58 crop of Florida oranges and tangerines was expected to total 83 million boxes, 15 percent smaller than the 1956-57 crop. With the California orange crop 10.4 million boxes smaller this season, total production of oranges and tangerines is indicated to be 112.3 million boxes, 24.4 million boxes or 18 percent smaller than in 1956-57.

Prospective production of Florida grapefruit on January 1 was 4 million boxes or 11 percent smaller than on December 1. Mainly because of this reduction, total production of grapefruit in the United States is expected to be 40.8 million boxes, 9 percent smaller than in 1956-57.

The final estimate of production of both grapefruit and oranges, especially oranges, will depend upon utilization by processors, according to USDA. In the processing of oranges following the freeze, the yield of juice per box was somewhat lower than that immediately preceding the mid-December freeze.

The canning of citrus juices in Florida got under way a little earlier last fall than in the fall of 1956, USDA reports. Following the freeze of December 12-13, citrus were rushed to packing plants to minimize losses. Consequently, output of canned single-strength citrus juice by January 4 was much larger than a year earlier. To that date the pack of orange juice was up 40 percent, grapefruit juice up 4 percent, blended orange and grapefruit up 22 percent, and tangerine juice down 36 percent. Total output was nearly 17.3 million cases, up 28 percent.

Carryover stocks of Florida canned citrus juices last fall were about twice those of a year earlier. But movement from packers also has been up sharply this season. The net result is that packers' stocks of the four canned juice items on January 4 were about 12.4 million cases, 36 percent above a year earlier.

Output of frozen orange concentrate to January 4 totaled 11.6 million gallons, 26 percent larger than a year

earlier. Carryover stocks were about 16.3 million gallons, 11 percent smaller than a year earlier. Movement to January 4 was up 8 percent, and stocks on that date were 15.8 million gallons, down 3 percent.

## Spinach for Processing

Smaller acreages of winter and early spring spinach for processing are in prospect in Florida and California this year than last, according to the Crop Reporting Board of USDA.

Seasonal Group and State	1957 Planted (acres)	1958 Har- vested (acres)	1958 Pro- spective (acres)
Winter:			
Florida.....	1,000	800	1,000
Early Spring:			
California.....	9,900	9,400	7,700
Total.....	10,900	10,200	8,700

## Pesticide Inventories

Carryover stocks of important pesticides in the hands of basic producers and formulators September 30, 1957, averaged about as large as on the same date a year earlier, according to a report by USDA.

USDA's annual survey indicates smaller stocks of DDT, lead arsenate, and copper fungicides offset by larger carryovers of 2,4-D, 2,4,5-T, and calcium arsenate. Benzene hexachloride stocks were about the same size. Inventories of newer phosphorus insecticides, such as malathion and methyl parathion, increased some.

## Pack of Canned Meat

The quantity of meat canned and meat products processed under federal inspection during December has been reported by the Agricultural Marketing Service of USDA at 183,846,000 pounds, including quantities for defense.

### CANNED MEAT AND MEAT PRODUCTS PROCESSED UNDER FEDERAL INSPECTION, DECEMBER, 1957

	3 Lbs. Under & over 3 Lbs.	Total
(thousands of pounds)		
Luncheon meat.....	13,676	10,548 24,223
Canned hams.....	14,165	605 14,770
Beef hash.....	449	5,870 6,320
Chili con carne.....	702	12,840 13,542
Vienna sausage.....	161	4,382 4,543
Frankfurters and wien- ers in brine.....	5	359 364
Deviled ham.....		742 742
Other potted and deviled meat products.....		2,768 2,768
Tamalee.....	238	2,927 3,165
Sliced, dried beef.....	27	268 295
Chopped beef.....		1,047 1,047
Meat stew.....	192	9,310 9,502
Spaghetti meat products	111	8,090 8,200
Tongue (not pickled)...	19	222 241
Vinegar pickled products	873	1,255 2,129
Sausage.....		702 702
Hamburger.....	300	2,116 2,416
Soups.....	1,980	47,904 49,884
Sausage in oil.....	420	585 1,005
Tripe.....		268 268
Brains.....		257 257
Loins and picnics.....	2,699	124 2,823
All other products 20% or more meat.....	491	7,216 7,707
All other products less than 20% meat (ex- cept soup).....	443	19,850 20,293
Total all products.....	36,952	140,265 177,217

Columns do not add to totals shown in all cases since rounded figures are used. Amounts packed for defense are not included in these items. Total production, including quantities for defense agencies, was 183,846 thousand pounds.

## Stocks of Canned Foods on Jan. 1 and Season Shipments

Reports on canners' stocks and shipments of canned apples, apple sauce, RSP cherries, asparagus, corn, peas, tomato juice, catsup, and chili sauce have been issued by the N.C.A.

Division of Statistics, and detailed reports covering the January 1 stock and shipment situation have been mailed to all canners packing these products.

			Total Supply		Canners' Stocks, Jan. 1		Season Shipments to Jan. 1	
	Carry- over month	Case basis	1956	1957	1957	1958	1956	1957
(thousands of cases)								
Apples.....	Sept.	6/10	3,822	4,261	2,471	3,012	1,351	1,249
Applesauce....	Sept.	actual	14,630	14,996	9,785	9,748	4,845	5,248
Cherries, RSP..	July	actual	3,103	3,805	1,464	1,680	1,639	2,125
Asparagus.....	March	actual	8,048	8,613	1,332	1,456	5,214	5,652
Corn.....	Aug.	actual	44,390	43,149	26,670	27,160	17,720	15,980
Peas.....	June	actual	35,152	41,708	16,293	22,104	18,860	19,604
Tomato juice....	July	actual	40,030	37,500	25,674	22,491	14,356	15,000
Catsup.....	July	actual	33,151	31,260	20,575	19,796	12,576	11,463
Chili sauce.....	July	actual	3,753	3,256	2,206	2,109	1,546	1,148



## Year-End Economic Activity Reported Generally Easing

Economic activity at year-end continued to show signs of easing from last summer and early fall when most economic indicators were at peak rates.

According to reports by the Office of Business Economics, U. S. Department of Commerce, the economy was operating at a high rate as evidenced by the flow of personal income, but the easing tendencies apparent in many segments more than offset continued advances in some others.

Personal income in December was at a seasonally adjusted annual rate of \$342.8 billion, \$2½ billion lower than in the previous month. The bulk of the decline was in dividends and reflected a less-than-usual volume of year-end extra and special payments. Wage and salary disbursements also declined in December.

Personal income for the full year 1957 amounted to a record \$343 billion, \$16 billion or 5 percent higher than in 1956. This represented a gain in money income and in purchasing power as well, since the relative advance exceeded the rise in consumer prices.

For the year wages and salaries were up by \$11½ billion, government transfer payments by \$2½ billion, and interest receipts by \$1 billion. Smaller increases—both in dollar and percentage terms—occurred in nonfarm proprietors' income, dividends, and rental income. Farm income held approximately stable for the second successive year.

Dividend payments in December were in line with or up from December of 1956 in most of the manufacturing industries, with nonferrous metals and textiles and the leather group being significant exceptions. The largest of the advances occurred in the food, chemicals, oil refining, and automobile industries.

The nation's business population increased by 30,000 firms from mid-1956 to mid-1957. Small net increases, to new highs, were recorded for each of the major industry groups except manufacturing and construction. Growth in retail trade was greater in 1957 than the year before.

Retail sales for the year 1957 amounted to \$200 billion compared with \$190 billion in 1956, the previous high. Total dollar sales of retail stores in the last three months of 1957 were off 2 percent from the third quarter on a seasonally adjusted basis, but

the rise from the holiday season of 1956 amounted to 3 percent in dollar value and indicated a volume of business about on a par with that of a year ago.

Industrial production declined in December, due to cutbacks in most industries, to 136 percent of the 1947-49 average. This is 7½ percent lower than the peak rate of 147 in December, 1956.

Employment in December, at 64.4 million, was 477,000 below November and about 150,000 below a year earlier. The rate of unemployment was reported at the highest rate since November of 1954.

Construction activity continued to expand during the last half of 1957. Public construction, particularly state and local government projects, rose 9 percent. Private construction was up slightly, with higher outlays by public utilities and hospitals and other non-profit institutions offset by smaller amounts for houses and a slackening of growth in industrial and commercial facilities.

## Surplus Inventory Disposal at Record Level during 1957

Surplus farm products moved from CCC stocks into consumption at record levels during 1957, according to a USDA year-end summary of commodity operations.

Surplus commodities with a cost value of \$4.2 billion were disposed of during the fiscal year ended last June 30. Commodities worth an additional \$1.1 billion were moved out in the following three months. The total for the 15-month period ending September 30, 1957, thus was \$5.3 billion.

During the time of these disposal operations, however, steady acquisition of new surplus stocks under the price support programs served to keep CCC inventories at high levels, USDA said.

Four commodities or commodity groups accounted for nearly 80 percent of the total distribution of CCC surplus farm products during the 15-month period. With a combined cost value of \$4.89 billion, they were cotton \$2.68 billion, wheat and flour \$962 million, corn and meal \$629 million, and dairy products (butter, cheese, and dried milk) \$430 million.

USDA said that heavy losses were incurred in the movement of the accumulated surpluses. During the 15-month period ending last September 30 losses to CCC totaled \$1.6 billion. In addition, other funds and agencies

financed distribution of substantial volumes of surplus commodities through special outlets. These included transfers to other agencies, shipments under P. L. 480 and exports under the International Wheat Agreement, and the net realized cost of all programs primarily for support of farm price and income in fiscal 1957 was almost \$3.3 billion.

The rate of disposal of surplus agricultural commodities has increased each year since 1953, according to the USDA. From July 1, 1953, through this past September, a period of 4¼ years, commodities moved out of CCC inventory had a total cost value of \$11.5 billion.

Sales for dollars have led all other surplus disposal, amounting to \$6.9 billion and accounting for 60 percent of the total during the 4¼-year period.

While emphasis has been on dollar sales, a number of special outlets and authorities are used under CCC's coordinated sales program to round out the total disposal effort. Commodities costing \$1.3 billion were bartered for strategic and critical materials produced abroad. CCC-owned commodities worth \$1.1 billion were sold for foreign currency under P. L. 480. Surplus items worth \$720 million were transferred to other federal agencies for relief and subsistence operations. Donations amounted to \$1.4 billion.

## Dr. Stier Speaks

Prospects for growth in the fruit processing industry were described by Dr. Howard L. Stier, Director of the N.C.A. Division of Statistics, at the 62d annual meeting of the Virginia State Horticultural Society in Roanoke January 13.

Dr. Stier cited current anticipations with regard to population growth, formation of new families, increased number of working women, and other economic changes, and suggested that the key to higher per capita consumption of canned foods will be the development of new and improved products, with uniform quality that the consumer can depend on, and backed by imaginative and aggressive marketing.

Dr. Stier showed a series of charts which illustrate that the only major canned fruit item having gained significantly in per capita consumption in the past 10 years is canned applesauce. Also, data were presented which showed that canned apple juice was particularly popular among high income families.

## N.C.A. President Honored

A. Edward Brown, 1957 President of the N.C.A., was named the "Man of the Year" in southwestern Michigan's agricultural industries, and will be honored at a banquet to be held March 20 in St. Joseph, Mich.

The announcement was made just as Mr. Brown was leaving to perform his duties as presiding officer at the N.C.A.'s 51st Annual Convention at Atlantic City. Copies of the Benton Harbor News-Palladium which carried the announcement and Mr. Brown's picture as front page copy were delivered in Atlantic City and made available to the canning industry trade press in the N.C.A. Press Room.

Mr. Brown is the fourth recipient of the Michigan "Man of the Year" designation and the first from the canning industry. The article reviewed his active role in the extensive growth and expansion of his firm, Michigan Fruit Canners, Inc. The annual award is made by the Michigan Frozen Food Packers Association.

## Mitchell Named by Larsen

Mark H. Mitchell, formerly assistant production manager, has been named production manager for all operations of The Larsen Company, Green Bay, Wis. He succeeds Russell Winters, who has become executive vice president for sales, National Can Corp., with offices in Chicago.

Mr. Mitchell first became associated with The Larsen Company in 1943 in a public relations-labor recruitment capacity. He became chief fieldman of Green Bay operations in 1944, raw products manager for all plants in 1947, and assistant production manager in 1952. He has been responsible in recent years for the organization and development of the company's personnel, industrial engineering, raw products, and commodity research activities. Much of his time, during the past two years, has been in the field of administrative production duties, including manufacturing budgeting and overhead control.

## Northwest Packers & Growers

Adolph R. Hraba, Alderman Farms Frozen Foods, Inc., Dayton, Ore., has been elected president of Northwest Packers and Growers, Inc.

John A. Hilstrom, California Packing Corp., Portland, Ore., was elected vice president, and William E. Yeomans, Portland, was continued in office as secretary-treasurer.

## Forthcoming Meetings

Feb. 5-6—Minnesota Canners and Freezers Association, 11th Annual Canners and Fieldmen's Short Course, Radisson Hotel, Minneapolis

Feb. 10-12—Michigan Canners and Freezers Association, Conference for Fieldmen and Processors, Kellogg Center, Michigan State University, East Lansing

Feb. 11-12—New York State Canners and Freezers Association, Canners School, Agricultural Experiment Station, Geneva

Feb. 17-19—Ohio Canners Association and Ohio State University, Annual Conferences for Canners, Fieldmen and Growers, Deshler-Hilton Hotel, Columbus

Feb. 20—Ozark Canners Association, 50th Annual Convention, Colonial Hotel, Springfield, Mo.

Feb. 24—Indiana Canners Association, Canners', Fieldmen's and Growers' School, Purdue University, Lafayette

Feb. 25-26—Indiana Canners Association, Canners and Fieldmen's Conference, Purdue Memorial Union, Lafayette

Feb. 28-March 1—Virginia Canners Association, 50th Annual Meeting, Hotel Roanoke, Roanoke

March 2-6—National Association of Frozen Food Packers, Annual Convention, The Conrad Hilton, Chicago

March 6-7—Pennsylvania Canners Association, Fieldmen's Conference and Canners' Workshop, Allenberry Lodge, Bolling Springs

March 9-12—National-American Wholesale Grocers Association, 52d Annual Meeting, Palmer House, Chicago

March 13-14—Tri-State Packers Association, Spring Meeting, The Shelburne, Atlantic City, N. J.

March 21-22—Utah Canners Association, 46th Annual Convention, Hotel Utah, Salt Lake City

March 24-25—Canners League of California, 54th Annual Meeting, Santa Barbara Biltmore, Santa Barbara

March 26-27—Wisconsin Canners Association, Spring Meeting, Madison

April 11—Canners Conference, University of California, Davis

April 20-23—U. S. Wholesale Grocers Association, Grocery Distribution Exposition, Kiel Auditorium, St. Louis

April 27-30—Chamber of Commerce of the U. S., 46th Annual Meeting, Washington, D. C.

May 5-7—Purdue Industrial Waste Conference, Purdue Memorial Union Bldg., Lafayette, Ind.

May 5-9—National Restaurant Association, 39th Annual Convention and Exposition, Chicago

May 11-14—Processed Apples Institute, 7th Annual Meeting, Seaview Country Club, Absecon, N. J.

May 22-23—NATIONAL CANNERS ASSOCIATION, Spring Meeting of Board of Directors, Sheraton-Park Hotel, Washington, D. C.

May 25-28—Super Market Institute, 21st Annual Convention, Atlantic City, N. J.

June 5-9—Michigan Canners and Freezers Association, Spring Meeting, Park Place Hotel, Traverse City

June 8-12—National Association of Retail Grocers, 59th Annual Convention, New York

June 12-13—California Olive Association, Annual Technical Conference, Casa Munras, Monterey

Oct. 16-18—Florida Canners Association, 27th Annual Convention, Americana Hotel, Bal Harbour

Nov. 4-6—Iowa-Nebraska Canners Association, Canners and Fieldmen's Conference, Hotel Fort Des Moines, Des Moines

Nov. 10—Wisconsin Canners Association, Annual Convention, Schroeder Hotel, Milwaukee

Nov. 23-24—Pennsylvania Canners Association, 44th Annual Convention, Yorktowne Hotel, York

Nov. 24-25—Michigan Canners and Freezers Association, Fall Meeting, Pantlind Hotel, Grand Rapids

Dec. 1-2—Ohio Canners Association, 51st Annual Convention, Dayton Biltmore Hotel, Dayton

## USDA Features Canned Foods on February Plentiful List

The monthly Plentiful Foods Bulletin, issued by the Agricultural Marketing Service of the USDA features canned peas under the merchandising slogan "Peas on Parade." This is the campaign theme adopted by government and industry in its agreement to feature this product during a peak drive in the month of February.

The bulletin, which USDA circulates widely through national distributing circles, urges retailers to set up special store-wide events with shelf-talkers and other point-of-sale material, some of them featuring the fact that peas go with every meal.

Canned peas also were featured in the monthly buying guide USDA mails to public and institutional feeders, containing menu and merchandising suggestions.

### DISTRIBUTOR GROUPS COOPERATE

Major efforts to promote canned peas have been launched by two more of the distributor organizations. The Super Market Institute issued a *Plentiful Foods Bulletin* dated February, 1958, calling attention to the USDA-industry peak period of canned peas sales activity and the slogan "Peas on Parade." Mailings of the special S.M.I. bulletin were made to its wide membership urging support of the promotion effort.

A January 18 *Agricultural Bulletin* was sent by the National Association of Food Chains to about 1,200 presidents, sales and advertising managers, and other top operating executives of chain supermarkets and stores throughout the country. This drew attention to the organized promotion during February for canned and frozen peas scheduled under the N.A.F.C. Farmer-Retailer Marketing Program, and it urged all member companies to participate to the fullest extent possible. The bulletin pointed to the need of sales help for peas and suggested extra promotions.

The N.C.A. mailed copies of these two distributor bulletins to its member pea canners, officers, and members of the Board of Directors.

## Supreme Court Decisions on the Robinson-Patman Act

Two recent decisions of the United States Supreme Court in Robinson-Patman Act cases have occasioned considerable comment in the food industry. In some reports, it appears that the precise decision of the Court has been misunderstood.

### NASHVILLE MILK CASE

In the Nashville Milk Company case, and a companion case involving Safeway Stores, Inc., both decided on January 20, 1958, the precise question presented was whether a private treble-damage lawsuit could be brought for an asserted violation of Section 3 of the Robinson-Patman Act.

The narrow scope of this decision can readily be seen from an outline of the Robinson-Patman Act. The basic prohibitions of that statute are contained in Section 1. This first section includes the prohibition against competitively injurious price discrimination; the prohibition of brokerage payments, or discounts in lieu of brokerage, to a buyer or his representative; the prohibition against advertising and promotional allowances that are not made available on proportionally equal terms to all competing buyers; and the prohibition against the knowing inducement or receipt of a discriminatory price by a buyer.

All of these basic provisions of the Robinson-Patman Act are stated in the form of amendments to the Clayton Act of 1914. Violations of the Clayton Act may be proceeded against by the Federal Trade Commission and the Department of Justice, or may be made the basis for a treble damage action by any person injured as a result of those violations.

The Nashville Milk decision does not change any of these basic prohibitions, or in any way curtail how they may be enforced by either prosecution or private suit.

Historically, when the original Robinson-Patman Act was pending in Congress, there was also being considered a separate, criminal statute prohibiting the selling at discriminatory prices in various parts of the United States, or selling at unreasonably low prices for the purpose of destroying competition or eliminating a competitor. This separate proposal for a criminal statute was known as the Borah-Van Nuys bill. It was a penal statute. Violation was made subject to fine or imprisonment. In

the course of Congressional consideration, it was simply hooked on to the end of the Robinson-Patman Act.

Treble damage actions may be brought only for violations of the "antitrust laws" as these are specifically defined in the Clayton Act. As early as 1936, it was pointed out that in technical terms the Borah-Van Nuys portion of the Robinson-Patman Act was not included in the definition of an "antitrust law" because it was not an amendment of the Clayton Act. Accordingly, on this interpretation, violations could be prosecuted criminally, but could not be made the basis of a treble damage suit. In the Nashville Milk case, the majority of the Supreme Court confirmed this view. The four dissenting judges admitted that the definition of "antitrust laws" did not include the Borah-Van Nuys provision, but insisted that it was the intent of Congress that they should be included. They referred to the legislative history and concluded that it had been "the prevailing sentiment in Congress" that a treble damage suit should be permitted even for a violation of the criminal provision.

Because of the broad language of the dissent, this fairly narrow decision in the Nashville Milk Company case has been misunderstood to mean that no treble damage suits could ever be brought for any violation of the Robinson-Patman Act. As noted, this is incorrect because the use of private damage suits to recover damages resulting from violation of the basic provisions of the Robinson-Patman Act was left untouched. On January 23, 1958, Congressman Patman introduced a new bill (H. R. 10248) to include Section 3 within the definition of an "antitrust law."

### THE STANDARD OIL CASE

On January 27, 1958, the Supreme Court terminated the 17-year old litigation in the Standard Oil of Indiana case involving the question whether that Company had been meeting competition in good faith in giving lower prices to four Detroit gasoline jobbers.

This decision was a sequel to the 1951 *Standard Oil* decision in which the Supreme Court had held that where a seller in good faith lowers his price in order to meet the equally low price of a competitor, proof that he did so is a complete defense to a charge of violation of the Robinson-Patman Act. It was this 1951 decision that occasioned all of the agitation for an amendment to the Robin-

son-Patman Act to change the rule established by the Supreme Court.

In the 1951 decision, however, the Supreme Court had ordered the proceeding remanded to the Federal Trade Commission for further findings as to whether the Standard Oil Company had in fact acted in good faith in lowering its prices to the four jobbers. On remand, the Federal Trade Commission held that Standard Oil had not acted in good faith because its lower prices had been given as part of a systematic pricing system that had existed prior to the enactment of the law in 1936.

On appeal, the Circuit Court of Appeals had reversed the decision because, after reviewing the record, it had determined that there was no evidence to support the Commission's conclusion. The Supreme Court ruled that this issue was a question of fact, and that it would not interfere with the conclusion of the lower court. The Supreme Court pointed out that the case had twice been before the Court of Appeals, and that its decision on the question of fact had also accorded with that of the trial examiner and of two dissenting members of the Federal Trade Commission.

The Supreme Court made clear its views that the meeting of competition defense was limited to meeting "individual competitive situations" and would not be applicable where different prices were given pursuant to a pricing system. In other words, meeting competition is limited as a defense to transactions with particular buyers. Whether the competition existed and whether the seller acted in good faith are always questions of fact; and in effect the majority of the Supreme Court determined that it would not review eight volumes of the Standard Oil case record to decide whether the lower court had correctly determined these issues of fact in the particular case.

The same four justices dissented in the Standard Oil case, who had dissented in the Nashville Milk case, also on the grounds that Standard's method of dealing with its jobbers precluded the existence of good faith, that Standard had not shown that the prices they were meeting were themselves lawful, and that this demonstration should be a requirement in the defense of meeting competition. Once again, the language of the dissent—urging that the decision "cripples the enforcement of the Robinson-Patman Act"—may have led to some misunderstanding.



## Farm Machinery Replacements

A new USDA leaflet, *Planning Farm Machinery Replacements*, suggests sound advance planning to ensure replacement of farm equipment in a manner that will avoid undue financial hardship and keep a farm properly mechanized.

Published by the Agricultural Research Service, the leaflet carries the reminder that most machinery must be replaced eventually, and that waiting until it wears out or breaks down before making plans for replacement is poor business. Instead, farmers are advised to put on paper a long-range replacement program aimed at meeting equipment needs as they arise.

The first step is to list the types and number of machines presently needed to run the farm. The make, model, purchase date, and cost should be recorded, along with an appraisal of each machine's current value and probable life span. Next, the farmer should note the physical condition of each machine and estimate the probable repair costs to keep it running.

An estimate of the probable cost of replacing each machine should be made, using current prices even though they may change before the time for buying. The probable trade-in allowance ought to be figured, as should the amount of cash or credit that will be needed for the purchase.

The leaflet includes a model worksheet for making such a detailed study and offers advice on making major purchases.

Single copies of *Planning Farm Machinery Replacements* (USDA Leaflet No. 427) may be obtained from the Office of Information, U. S. Department of Agriculture, Washington 25, D. C.

## The American Home

"Of all vegetables, I prize tomatoes most because they know no season, and they blend with almost any food. If there's a can of tomatoes on your pantry shelf, you have a meal within reach," says June Towne, food director, in her article entitled "Take A Can of Tomatoes" in the February issue of *The American Home* magazine.

Mrs. Towne goes on to say, "Many cooks rely upon tomatoes merely as a base for a sauce such as would be used over spaghetti or served as a simple vegetable. But there are many other rather unusual recipes based on our reliable friend the tomato." The six recipes given in the article are attractively pictured in color.

## Shipments of Metal Cans

Shipments of metal cans for food during the first 11 months of 1957 have been reported by the Bureau of the Census, U. S. Department of Commerce.

	Jan.-Nov. 1956	1957 (short tons of steel)
Fruit and vegetable (including juice).....	1,576,393	1,429,305
Meat (including poultry).....	139,047	128,103
Fish and sea food.....	106,613	109,534

## Shipments of Glass Containers

Shipments of glass containers for food during the first 11 months of 1957 have been reported by the Bureau of the Census, U. S. Department of Commerce.

	Jan.-Nov. 1956	1957 (thousands of gross)
Wide-mouth food (including fruit jars and jelly glasses).....	34,934	37,006
Narrow-neck food.....	14,162	14,339

## McCall's

Canned red cherries, pears, apples, pineapples, purple plums, figs, and peaches are used in the recipes for the handsome pies shown in the page and a half color photograph that illustrates the article "The Test of A Good Cook Is A Good Pie" in the January *McCall's* magazine.

The introduction says, "An Honest-To-Goodness American pie (one of our real contributions to good eating) has a delicately brown crust so tender it crumbles at the first touch of a fork. Its delicious middle is apt to be fruit."

Another article, "Best-Buy Dinner Features Pork and Sauerkraut," begins, "Pork and sauerkraut at the start of the New Year is every bit as traditional as your Christmas fruitcake. Our tested and enthusiastically tasted recipe uses all the interesting flavor touches (caraway, sour cream, knockwurst) that good German cooks have used for many generations. With pork and sauerkraut both high on our list of plentiful, you will enjoy the cost-and-work economy of this good dinner."

The menu includes tomato juice and canned asparagus salad as well as the featured recipe "Pork and Sauerkraut." January "Best Food Buys," that is part of the article, lists ten canned foods among those presented as good buys.

## Agricultural Policy Hearings

The Chairman of the House Agricultural Committee has requested subcommittee chairmen to conduct commodity-by-commodity studies of agricultural programs, including the President's 14-point special message to Congress.

By instituting this procedure of individual hearings for various commodities, it is hoped that a single farm bill can be eventually formulated which would embrace the commodity-by-commodity approach.

Appearing as spokesman for many of the basic commodities will be the recently organized National Conference of Commodity Organizations.

Hearings have been scheduled by the Subcommittee on Livestock and Feed Grains and the Subcommittee on Dairy Products. No hearings are scheduled at present on fruit or vegetable problems.

## Trade Agreements Act

Hearings on bills to amend and extend the Trade Agreements Act will be held by the House Ways and Means Committee beginning February 17.

Representative Mills (Ark.), new Chairman of that Committee, has announced that he will introduce a bill, at the request of the Administration, to carry out the President's recommendation for a five-year renewal of the Trade Agreements Act.

Under the President's proposal the President would be authorized to reduce rates of duty existing July 1, 1958:

(a) By 5 percent of the duty annually for five successive years. However, as an alternative, the President could reduce a duty by this same total amount over a three-year period if no yearly reduction exceeded 10 percent of the duty.

(b) By 3 percentage points ad valorem, without any yearly reduction exceeding 1 percentage point.

(c) To 50 percent ad valorem if an existing duty is in excess of that amount. In such cases no more than one-third of the total reduction could be made in any one year.

These would be alternative methods which could not be used cumulatively.

The President also has proposed that he be authorized to raise the duty 50 percent above the level in effect July 1, 1934, in cases found to warrant such protection.

## Status of Legislation

**Agricultural trade development**—S. 3039 (Schoepel and others), to raise Title I authorizations from \$4 to \$5.5 billion and to extend P. L. 480 to June 30, 1959, as requested by the President, is pending before Senate Agriculture Committee.

**Alaska statehood**—H. R. 7999, to provide statehood for Alaska, was reported by House Interior and Insular Affairs Committee June 25, 1957. S. 49, Alaska statehood, and S. 50, Hawaii statehood, were reported by Senate Interior Committee Aug. 29, 1957.

**Farmworkers housing**—H. R. 9057, to provide for five-year amortization of housing facilities for farmworkers, was reported by House Ways and Means Committee Aug. 21, 1957.

**FDA food additives**—H. R. 6747 (Harris of Ark.) and S. 1895 (Hill of Ala.), the Administration-sponsored bill, H. R. 8390 (Harris of Ark.), H. R. 8629 (Wolverton of N. J.) and other food additives bills will be the subject of hearings by the Health and Science Subcommittee of the House Commerce Committee Feb. 4-5. N.C.A. supports H. R. 8390 and H. R. 8629.

**Fisheries loan fund**—S. 2720, to increase the loan fund authorization from \$10 million to \$13 million, was passed by the Senate Aug. 20, 1957.

**Government contracts**—H. R. 722, to amend the Robinson-Patman Act so as to make sales to nonprofit institutions for resale, subject to the Act, is pending before the House Judiciary Committee.

**ICC agricultural exemption**—S. 1689 (Magnuson of Wash.) and H. R. 5823 (Harris of Ark.), to amend the agricultural exemption in sec. 203 (b) (6) of the Interstate Commerce Act, have been introduced.

**ICC private carrier definition**—S. 1677 (Magnuson of Wash.) and H. R. 5825 (Harris of Ark.), to amend the definition of a private motor carrier, as recommended by the ICC, was the subject of hearings by the Senate Surface Transportation Subcommittee May 6-10, 1957.

**ICC private carrier registration**—S. 1490 (Magnuson of Wash.) and H. R. 5664 (Harris of Ark.), to require private motor carriers to register with the ICC annually, was approved by the Senate Surface Transportation Subcommittee April 12, 1957, and further action on the bill was postponed indefinitely.

**Marketing orders**—H. R. 8367 (Sisk of Calif.) is designed to authorize the Secretary of Agriculture to continue marketing orders in effect even after parity is reached. No action scheduled.

**Marketing orders, cranberries**—S. 1680 (10 Senators from 5 cranberry producing states) and other bills to

amend the Agricultural Marketing Agreement Act so as to authorize marketing orders for cranberries for canning, were the subject of hearings by a Senate Agriculture Subcommittee April 20, 1957. N.C.A. opposes.

**Packers and Stockyards Act**—S. 1356 (O'Mahoney of Wyo.), to transfer antitrust jurisdiction over meat packing operations from USDA to FTC, was reported by the Senate Judiciary Committee July 18, 1957. H. R. 9020, to retain USDA antitrust jurisdiction on exclusive meat packing operations, was reported by House Agriculture Committee July 9, 1957.

**Potato marketing and labeling**—A number of bills to prohibit the sale of potatoes of a lower grade than U. S. No. 2, under certain conditions, were the subject of hearings by the House Agriculture Committee and by the Senate Agriculture Committee in 1957. N.C.A. opposes application to canning.

**Premerger notification**—H. R. 7698 (Celler of N. Y.), to require 60 days notice prior to merger of corporations having total book value of more than \$10 million, was reported by House Judiciary Committee May 28, 1957.

**Raw product bargaining**—S. 1743 (Aiken of Vt.), to legalize organized bargaining for agricultural commodities under certain conditions, has been

referred to Senate Agriculture Committee; and H. R. 6799 (Bow of Ohio) and H. R. 7807 (Bentley of Mich.) have been referred to House Judiciary Committee. No action scheduled.

**Robinson-Patman Act**—S. 11 (Kefauver of Tenn.) and H. R. 11 (Patman of Tex.), to restrict the good faith defense against a charge of price discrimination, was approved without recommendation, by Senate Antitrust Subcommittee June 21, 1957, and is pending before the Judiciary Committee.

**Trade Agreements Act**—H. R. 10368 (Mills of Ark.), to amend and extend the Trade Agreements Act, will be the subject of hearings by the House Ways and Means Committee beginning Feb. 17.

**Wage-Hour**—S. 1853 (Kennedy of Mass.), which includes proposal to eliminate overtime fishery exemption, was approved, without recommendation, by Senate Labor Subcommittee May 7, 1957.

**Waste disposal**—H. R. 1082 (Byrnes of Wis.), H. R. 2463 (Lipscomb of Calif.), and H. R. 4234 (Simpson of Pa.), to allow rapid amortization of waste disposal facilities and treatment works, have been introduced. N.C.A. supports the proposal, which is before House Ways and Means Committee.

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